EAST-WEST INVESTMENT NEWS

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Cumulative foreign investment in the FYR of Macedonia reaches USD 40.7 million.

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ABBREVIATIONS

BOT	Build, Operate and Transfer
BOOT	Build, Own, Operate and Transfer
BRT	Build, Rent and Transfer
DBOOT	Design, Build, Own, Operate and Transfer
CIS	Commonwealth of Independent States
CEFTA	Central European Free Trade Agreement
FDI	Foreign direct investment
FDIE	Foreign direct investment enterprise
FFR	French franc
FI	Foreign investment
FIE	Foreign investment enterprise
GBP	Pound sterling
JPY	Yen
LTL	Lithuanian litas
RF	Russian Federation
RUR	Russian Federation rouble
SMEs	Small- and medium-sized enterprises
SOE	State-owned enterprise
TE	Transition economy
US	United States
USD	US dollar
VAT	Value-added tax

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REVIEW OF RECENT LEGISLATION

Ukraine:

New regulations on foreign trade and investment

At the beginning of January 1996, the Cabinet of Ministers approved the list of export and import goods to be subject to foreign trade regulations (licensing and quotas) in 1996. Among export goods which are subject to licences and quota restrictions are precious ores and metals, waste and scrap metal, and precious and semi-precious stones. Licences will be required for the import of pharmaceutics, veterinary compounds, cosmetics, personal hygiene products, herbicides, etc.

Exports of livestock from Ukraine will be also subject to control from the Ministry of Foreign Economic Relations, which is to introduce the registration of livestock contracts and to control prices with the purpose of restricting exports at unreasonably low prices. By so doing, the Ministry hopes to avoid the implementation of anti-dumping measures by other countries.

In line with the Presidential Decree of 28 December 1995, a number of goods which are not produced domestically in sufficient quantities, such as the sperm of livestock and other farm animals, certain agricultural machinery, some packaging materials, technological equipment for the processing of milk and poultry meat, etc., were made subject to duties in case of export.

Under another Presidential Decree, that of 3 January 1996, VAT and excise duties were temporarily suspended on goods imported by companies with foreign participation for in-house use. This move followed a number of conflicts between joint ventures and fiscal authorities due to the current, ambiguous regulations on the payment of duties. The Decree calls for new rules on goods imported by joint ventures to be drafted and submitted for the approval of the competent authorities.

Among other recent regulations one should also note the Presidential Decree of 13 November 1995 on regulations governing investments made abroad by Ukrainian physical and legal persons. The decree concerns only investments made in kind: capital outflow is regulated by the rules in force on currency operations. Under this Decree, Ukrainian residents can export spare and assembly parts, consumer goods and all other goods which under the current foreign trade regulations require licences, or fall under quotas or another special export regime. The Decree also permits residents to make such investments abroad in the form of contributions to statutory funds of companies established in other countries or with the view of founding subsidiaries, branches, or representations abroad in line with their charters and/or areas of activity.

For investment purposes, the valuation of exported goods is to be based on international market prices. In addition, exports for investment purposes are to be subject to special licences to be issued by the Ministry of Foreign Economic Relations and Trade. The Decree also provides for strict control over such investments and operations by the National Bank, customs and tax authorities.

New regulations will facilitate investment and trade cooperation between Ukrainian companies and their counterparts, particularly subcontractors, in the CIS States as well as other countries. The latest statistical data show, for example, that 803 joint ventures with the participation of Ukrainian capital were registered in Russia at the beginning of 1995.

The purpose of the new regulations is also to provide for an increased inflow of foreign capital in the Ukrainian economy. At present, according to the estimates of local experts, domestic investments can cover only up to 6 per cent of the country's total investment requirements, while many sectors are in tremendous need of capital. The equipment of many enterprises has become old, inefficient or obsolete; it has been estimated that on the whole, such equipment makes up about 40 per cent of all the equipment used in Ukrainian industry. This ratio stands at 56 per cent in the fishing industry, 47 per cent in ferrous metallurgy, and at more than 39 per cent in both chemicals and building materials.

Lack of investment is directly linked to economic difficulties due to the falling industrial output, the rising cost of production, and insufficient local demand. Certain industries which are based on local raw materials managed to overcome these difficulties by orienting their production programme towards exports. For example, Ukraine exports about 40 per cent of its total production of rolled metal and 20 per cent of its extracted iron ore. At the same time, many well-developed and equipped enterprises in other sectors, such as chemicals, textiles, and food, which rely on raw materials from other countries and/or deliveries of final products abroad found themselves in a difficult situation primarily due to the disintegration of the Soviet Union and the rupture of former economic links. In general, the major export commodity groups in Ukraine are metallurgical goods, with 30 per cent of total exports, machinery, with 14 per cent, and agro-industrial products with 17 per cent.

About 60 per cent of all exports are oriented towards the CIS and Baltic States.

One method the Government uses to attract foreign capital is to create favourable conditions for foreign investors to participate in privatization. The Presidential Decree of 23 June 1995 on measures of ensuring privatization in 1995 introduced a national regime for the participation of foreign investors in privatization. To ensure the mobilization of domestic and foreign sources of credit and investment, the Ukrainian State Credit and Investment Company was established. The Government is also investigating the feasibility of founding of a bank for reconstruction and development.

Nevertheless, privatization in Ukraine is currently proceeding more slowly compared with the central European transition economies and even some CIS States, namely Russia.

In addition to institutional, legal and other problems, the pace of privatization is also hampered by differences between the Government and the Parliament in approaching the denationalization process. Thus, in November 1995 the Parliament passed a resolution suspending privatization in oil, gas and oil processing industries with the intention of preventing the alleged breaches of privatization regulations committed during the sale of state assets in these sectors.

According to the latest data released by the Ukrainian State Property Fund the number of privatized companies reached 8.2 thousand, consisting of 6.3 thousand small former state-owned enterprises (SOEs), 1.9 medium and large former SOEs, and 30 unfinished construction sites. It should be noted that the 1995 privatization programme called for the sale of 22 thousand small enterprises, 8 thousand medium- and large-sized companies and 1.2 thousand unfinished construction sites. The privatization of small enterprises accelerated at the end of 1995 and authorities believe that the process will be practically complete in 1996.

Foreign investors are showing a growing interest in privatization, which is a positive sign. Foreign investment in privatization in the first half of 1995 was estimated at more than USD 300 million.

To give further impetus to the inflow of foreign investment, the Ukrainian Parliament is at present debating the new version of the foreign direct investment (FDI) law, which will provide an equal regime for national and foreign investors. At present, the FDI legislation is based on special legal acts such as the Law on the Protection of Foreign Investment in Ukraine of 10 October 1991, the Law on the State Programme for the Promotion of Foreign Investment in Ukraine of 17 December 1993, the Cabinet of Ministers Decree on the Regime of Foreign Investment of 20 May 1993 and on provisions of a number of other general laws, specific resolutions and decrees of the Cabinet of Ministers and the President.

Russian Federation:

Legal changes in foreign trade, banking and other areas

On 1 January 1996 the Government lifted customs duties on the export of oil products (aviation, motor vehicle and other fuels, paraffin, etc.) and cut the export duty on deliveries of crude oil.

In line with strengthening its control over the transfer of export receipts back to Russia and fighting customs and tax fraud, beginning in January 1996 the Government will implement a scheme of mandatory valuation of export goods and of control over payments for imports. It may be recalled that control over export payments was introduced in January 1994. All contracts providing for payment (even partial) in currencies other than Russian roubles will be subject to new controls, with the exception of barter deals, goods imported under state credits, and the import of products originating from CIS States.

Under the export valuation rules, exporters will be obliged to submit their goods for quantity, quality and price inspection. The newly established governmental commission to deal with these issues will decide on which local and international institutions are to be entrusted to carry out the expert assessment and the goods that will be subject to it.

Also, from January 1996 the Central Bank lifted restrictions on foreign bank's operations with Russian physical and legal persons. During July-November 1993, limitations on the operations of foreign banks, their branches and banks with foreign participation were imposed for the period 1994-95. Such banks' activities were limited to transactions with non-residents. Only five foreign banks, which received licences from the Central Bank prior to the introduction of this rule, were exempted from it. While lifting the above-mentioned limitations, the Central Bank has, however, left others intact. For example, foreign banks will still not be allowed to conduct operations with shares of Russian companies. This restriction, as expected, will be in force until June 1999. In addition, the minimum account balance with the foreign bank is fixed at ECU 55 thousand: a requirement which few SMEs and physical persons will be able to meet. The geographical scope of foreign banks' activities is also limited, as they are not allowed to have more than one office in Russia.

At present, according to information from the Association of Russian Banks, in Russia there are 136 representations of foreign banks, 10 banks with capital totally owned by foreigners and 50 banks with foreign participation.

Among other recent legislative developments is the Parliament's adoption of the long-awaited Law on Production Sharing. This Law was originally passed in June 1995 by the lower chamber of the Russian Parliament and submitted to the upper chamber, the Council of the Federation, which rejected the bill in October 1995. On

the basis of the suggestions made by the conciliatory parliamentary commission, the Law was finally approved on 16 December 1995 by the Council of the Federation, and was signed by the President on 30 December 1995. The text of this Law will be analyzed in detail in the next issue of the East West Investment News.

In the area of legislation on domestic companies, on 30 November 1995 the President signed the Law on Financial-Industrial Groups which was previously passed by both chambers of the Parliament. According to the Law, financial-industrial groups are understood as groups of legal entities which have united their resources either in the form of a holding consortium or through the system of parent and subsidiary companies. The objectives of this concentration of resources are technological and economic integration, the implementation of investment projects to increase the competitiveness of and expand markets for their products, the upgrading of production efficiency and the creation of new employment opportunities.

The necessity of a favourable legal climate for such groups has been lobbied for a long time in the Government by representatives of large privatized companies. These companies complained of foreign competition and worsening business conditions for domestic industries both in Russia and in their traditional markets, namely in the CIS States. Establishing large, integrated industrial groups is considered to be a means of making them competitive both in domestic and international markets.

Financial-industrial groups can include state and private companies, and foreign legal entities; they can also unite producers of goods and/or services and banks and/or financial institutions. Companies cannot participate in more than one such group. Should a subsidiary of a company desire to become part of such a group, it may only join that of their parent company.

The Law requires that these groups register with the state. The state may provide assistance to such groups by granting them the right of deciding themselves on depreciation rates, reducing the ceiling of obligatory reserves for participating credit institutions, etc.

Groups which have legal entities from the CIS States as their members are registered as transnational financial-industrial groups. The Law stipulates that such groups may also be founded on the basis of agreements between the governments. In this case, they obtain the status of an inter-governmental group and can benefit from customs concessions granted for internal deliveries of the goods within the group.

It should be noted that before the current Law entered into force, in 1993-94 a number of Presidential decrees and Governmental decisions on issues related to establishing financial-industrial groups were passed. As far as relations between companies in the CIS are concerned, an assistance agreement on founding joint transnational groups was concluded in April 1994 by several CIS States. Based on this agreement, for example, the Russian Government signed bilateral accords on relevant issues with Kazakstan and Ukraine in 1994, and with Belarus and Uzbekistan in 1995.

At present there are ten registered financial-industrial groups in Russia. They unite 156 companies including 30 financial institutions; their combined statutory capital amounts to RUR 30 billion, they have an annual turnover of RUR 12.2 thousand billion and employ 750 thousand persons. In 1995 they accounted for 2-3 per cent of the total volume of investment and production in Russian industry. Experts believe that the latest changes in legislation will facilitate and accelerate the concentration process in the economy.

Other CIS States might also opt for similar industrial policies. Thus, in December 1995 the President of Belarus signed a decree on the establishment and activities of economic groups, the provisions of which are aimed at founding financial-industrial groupings of the type described above.

Poland:

Liberalization of foreign exchange regulations

In December 1995, new amendments to foreign exchange regulations entered into force. In line with these regulations, exporters were exempted from the obligation to sell their hard currency earnings to banks in exchange for zlotys. Exporters are now free either to sell their foreign currency for zlotys or to open a foreign exchange account in which they may deposit their earnings. New rules will help companies avoid exchange risks and costs of money transfer, particularly when a company is engaged both in export and import operations. In the past, companies with export earnings in foreign currency were unable to retain them for other purposes, such as for use as payment for imports.

Beginning 1 February 1996, Polish citizens will also be allowed to give loans, gifts, etc., to family members abroad of up to ECU 10 thousand. This is in addition to USD 6 thousand which may be taken out of the country. The purchase of property abroad worth up to ECU 50 thousand per person residing in Poland will be permitted as well.

This liberalization will also concern legal entities, which will be authorized to make direct and portfolio investments abroad. In both cases ceilings are fixed at ECU 1 million. Portfolio investments may include securities which mature after more than one year (foreign government treasury bonds and stock market bonds).

In January 1996 the Parliament passed the new law on fishing which allows, inter-alia, foreign vessels to fish in the Polish economic zone under permits issued by competent state authorities after consultations with organizations representing domestic fishermen.

The Polish Government has devoted much attention to the privatization of state assets, and will continue to do

so in 1996. State enterprises are to be sold through the public flotation of their shares and/or by direct sale to a strategic investor. The second option is considered to be preferential as it allows the state to receive payments quickly, helps the privatized company mobilize the necessary financial resources, and often acquire necessary managerial and technological expertise. Thus, Polish privatization authorities plan to utilize this method during the current year for more than 90 SOEs representing various industries, such as non-ferrous metals, chemicals, fertilizers, pharmaceuticals, transport, and domestic and foreign trade.

The pace of the privatization process in the country is characterised by the following figures. By the end of 1995 more than 1.5 thousand state enterprises were privatized and denationalization procedures have involved about 3.5 thousand state companies. The privatization of enterprises proceeds along the following major lines: the corporatization of companies and their transformation into so-called treasury owned companies with the subsequent sale of their shares; the direct privatization of enterprises, and liquidation when the existence of an enterprise is not economically feasible. Of the 432 new privatization deals started in January-November 1995, 199 state enterprises were transformed into treasury owned stock companies, 125 were placed on sale through direct privatization and 96 faced liquidation procedures.

One of the largest privatization deals which is currently under preparation (not only in Poland but in eastern Europe as well) is the sale of a 49 per cent stake in the Polish state telecommunications corporation. In the meantime, on 1 February 1996, the Government issued GSM digital standard mobile telephone operating licences to two consortia uniting Polish and foreign companies, thus opening the domestic market for competition from foreign telecommunications companies. The state telecommunications corporation still has a monopoly on international connections, but local and mobile telephone networks are open for private operators. The two consortia are expected to invest around USD 1 billion each in capital equipment and in licence fees to be paid to the state.

IN BRIEF

Belarus

In January 1996 it was announced that the National Bank had introduced an exchange rate band of 11.3 to 13.1 thousand Belarus roubles to one US dollar to limit its fluctuations against the dollar until 1 July 1996. It should be noted that a similar system was set up in Russia in July 1995.

The National Bank also announced that legal entities may only purchase hard currency and Russian roubles at the country's currency exchange, and not through banks as previously allowed. Justification of currency requirements, such as copies of import contracts, credit agreements, etc., will be required and the purchased currency cannot be held in an account for more than 30 days.

At the same time, a mandatory 10 per cent duty on the purchase of foreign currency at the national interbank currency exchange was introduced. Exemptions from this obligation will be granted only for companies importing strategically important goods, such as oil, fuel, grains, etc. The revenues will be accumulated in a soon-to-be established state fund which will provide support for exporters.

In line with the provisions of the Belarus-Russian customs agreement, the National Bank also introduced restrictions on cross-border transfers of Belarus and Russian roubles by individuals.

From 1 April 1996 all imports of tobacco and tobacco products will be subject to a licensing procedure. Moreover, all such goods to be sold on the domestic market must bear special excise stamps. Licences for tobacco imports will be sold through auctions to be organized by the Ministry of Foreign Economic Relations.

Central European Free Trade Agreement

In December 1995 the countries members of the Central European Free Trade Agreement (CEFTA), the Czech Republic, Hungary, Poland, and Slovakia, agreed on measures further liberalizing mutual agricultural trade.

Customs duties were abolished on a number of agricultural goods which are neither produced nor imported by these countries (tropical beverages, rice, etc.) and were reduced for some of the domestically produced products (poultry, dried milk, hops, etc.)

As of 1 January 1996 the CEFTA also includes a new full member, Slovenia, which earlier concluded bilateral trade agreements with the other four CEFTA member States. It is expected that the expansion of the grouping will lead to further growth in mutual commodity exchanges.

CIS

During the CIS summit meeting in January 1996, the member States discussed among other issues the prospects of cooperation in the area of the previously established customs union.

During the meeting, the countries which already concluded such an accord last year (Belarus, Kazakstan and Russian Federation) signed a new agreement on establishing an interstate customs committee to coordinate practical questions between relevant authorities in the countries and facilitate their move to a single customs space.

In the meantime, representatives of Kyrgyzstan, Tadjikistan and Uzbekistan confirmed their interest in joining the CIS customs union.

Lithuania

Following the collapse of two large commercial banks in December 1995, the Parliament introduced amendments to the country's banking and criminal legislation.

Thus, in accordance with the law passed at the end of December 1995, the Government may grant state guarantees

for loans provided to commercial banks experiencing liquidity problems due to the insolvency of other banks; it may also privatize shares in banks facing bankruptcy. A scheme of mandatory deposit insurance was also introduced.

On 18 January 1996 the Parliament adopted changes to the criminal code enforcing penalties for financial offenses, such as borrowing when knowing beforehand that the loan can not be repaid, obtaining loans by fraud, granting credit in an illegal manner, accepting unjustified levels of risk in bank operations, etc. The new rules also oblige bank employees to submit regularly information on bad debts to law-enforcement agencies.

A plan to nationalize insolvent banks and on ways of compensating the involved depositors was prepared by the Government in consultation with IMF experts. In line with this plan, the Government has already started restructuring the insolvent banks and granted interbank loans for other affected banks.

FOREIGN INVESTMENT[1]

Can BOT work in central and eastern Europe and the CIS?

by Dr. Carol Cosgrove-Sacks, Director, UN/ECE Trade Division, Geneva

Introduction

A key challenge facing the governments of central and eastern Europe and the CIS is the need to provide better services in transport, electric power, waste disposal, access to clean water and sanitation, telecommunications, etc. The demand for these services is increasing as these countries' economies grow and as a new, small-scale private sector emerges. Improvement requires investment. But, the governments in the region must maintain tight control over their expenditures. Local banks, too, are constrained by low levels of domestic savings and the international lending agencies as well have insufficient resources.

One option might be to transfer full responsibility for these infrastructures to the private sector, but this may not be feasible in some cases (e.g. if market conditions are not attractive or there are strong social or national security reasons which would render transferring the facility to the private sector inappropriate). Accordingly, governments in the transition economies have been increasingly attracted to a middle way which join the state and private sector in a partnership. One of the most common manifestations of this partnership which is becoming more and more used throughout the world is a non-recourse type of finance called BOT (Build, Operate and Transfer).

(a) What is non-recourse financing and BOT?

The main characteristic of a project finance transaction which sets it apart from more traditional methods of financing is its reliance on the revenue generated from a project for the repayment of loans and investment. An easily understood example are toll roads where the funds for the construction and operation of the project are generated by the users. Since the money is raised on the basis of the project and not by any major guarantees granted by the state or by a private company, this new type of project financing is known as "non" or "limited recourse" financing. Accordingly, a non- recourse project finance transaction does not allow lenders and investors to turn to sovereign or private entities for recourse should the project fail.

Since the loan is secured by the expected earnings of the project, a financier in considering whether to go ahead with a non-recourse financed project, will have to examine very closely the viability of the project. The lender has recourse only to the assets the loan has paid for, and the cash flow those assets may, or may not, generate. Project finance under this regime differs from the traditional financing techniques which rely for their security on a sovereign guarantee (here the investor would have to check the ability of the government to repay its debt and would have to examine such risk elements as the country's repayment history and its current debt burden) or from a guarantee from a private company (here the investor would have to take account of the balance sheet of the company and assess its creditworthiness).

A variant of project financing is concession financing. This is the temporary or permanent granting of a licence by a government to a project sponsor, consortium or joint venture to deliver a particular service. Such a license should be sufficient to permit the sponsor to raise necessary funds on a project financing basis. BOT and its near neighbours BOOT (Build, Own, Operate and Transfer), DBOOT (Design, Build, Own, Operate and Transfer), BRT (Build, Rent and Transfer), etc., are various forms of concession financing. BOT is the most common with the concession being the cornerstone of the BOT project finance model.

In the absence of traditional forms of guarantee as security, all the various risks that can affect the project must now be considered meticulously by the investor. These risks take many forms, political, commercial, legal, etc. The high risks mean that most project finance schemes are sponsored and undertaken by groups of local and/or international private sector companies, either as a joint venture or a consortium so that risks are spread amongst the parties.

This in turn has a number of other effects, such as: decision making between the various parties becomes more complex; negotiations between the government and the parties can be very long and drawn out; complex contracts and other legal documentation are required.

(b) Why is BOT so attractive?

Why should governments develop relationships with local and international private companies with a view to using them to manage national utilities and to finance essential investment requirements?

[1] The following presentations were amongst several delivered during the International Forum on Attracting Private Investment for Large-Scale Infrastructure Projects in the Transition Economies of Central and Eastern Europe and the CIS held at the Palais des Nations, Geneva, on 13 November 1995 and organized by the Working Party on International Contract Practices in Industry. The views expressed in this section are those of the respective authors and not necessarily those of the United Nations.

First, the private sector financing of essential infrastructure needs will relieve pressure on governments' budgetary requirements. These are extra resources and allow resources from the government's budget to be released for other purposes.

Second, the private sector can address inefficiency and respond more effectively to user demands. In many infrastructure sectors in the transition economies the problem is not one of expanding capacity but making it more efficient. In the energy sector, for example, the measures to cut down on waste and make power plants more efficient are the main priority. And evidence from around the world suggests that the private sector is better in building and operating more efficient energy structures and less glamorous services such as waste disposal, water purification, etc., than the public sector.

Third, the private sector imposes discipline on projects through the profit motive and ensures that project implementation, even for large-scale projects, is speeded up. Where BOT projects have been implemented, the speed in which the users have benefited from these new project finance schemes has been impressive. In telecommunications and other services, because of the private sector's use of new technologies, improvements to services can be made very quickly.

Fourth, the BOT project finance structure is particularly suited to the environment found in some transition economies where risks and uncertainties, both economic and political, are much higher. This structure mitigates risk amongst many participants through the employment of various financial instruments, such as escrow accounts or a syndicated credit facility.

Fifth, many of the benefits mentioned above would have been achieved by out-right privatization of the government function. However, this middle way of public-private partnerships can enable the general public to come to terms more easily with private and foreign involvement in the running of their public utilities.

The attractiveness of new project finance instruments such as concessions and BOT explains why demand for project finance has grown and continues to grow:

- in advanced market economies, private sector involvement in financing infrastructure developments and providing services is growing apace;

- in developing countries, use of private investment in infrastructures is growing. Privatization of infrastructures in developing countries in 1994 occurred in 39 countries and involved assests worth an estimated US$ 200 billion. In 1988, the total value of privatization in infrastructures in developing countries only amounted to US$ 430 million and involved just four countries.[2] The World Bank forecasts that while just 7 per cent of total investment in the infrastructures in developing countries in 1994 came from the private sector, the success of many of these projects will see that figure grow markedly in the next few years;

- in the transition economies, concession financing has already been used in a number of infrastructure sectors, especially in transport, power and telecommunications. In total, the investments in projects currently underway amount to well over US$ 2 billion.[3] However, they have only occurred in relatively few countries - Hungary, Slovenia, Romania, Poland, the Slovak Republic, and the Czech Republic. Further projects are scheduled in Hungary, Bulgaria and Poland.[4]

Accordingly, the facilitators of BOT and other project finance instruments have had themselves to respond to the new demand. Until recently, the export credit agencies (ECAs) played only a modest role in financing large-scale infrastructure projects. Now, most ECAs have a special project finance department and offer finance facilities covering political and certain types of commercial risks.

Institutions that have traditionally provided this form of financing to higher-risk regions (e.g. the International Finance Corporation, the World Bank, and the European Bank for Reconstruction and Development) have indicated their difficulties in meeting the demand for such transactions. As these transactions are extremely labour and time intensive, there is a need for these institutions to expand their activities in this area and for other lending and investment institutions to become involved.

(c) Why is BOT so difficult to implement?

Although several new BOT projects have begun in the region, the implementation of others has not taken place. For example, the M3 Motorway Toll project in Hungary, originally planned for private funding was revised by the Government and is to become a publicly funded project instead. Moreover, the early experience of BOT has raised a number of problems that will need to be overcome if private non-recourse financing is to develop.

There are at least four sets of problems which can create obstacles to BOT in central and eastern Europe and the CIS:

First, there is unsurprisingly *a lack of knowledge and skills* on BOT. BOT is after all a new concept even for countries whose economies were not recently centrally planned. It will take some time for local companies in the transition economies to take on the responsibility of partnerships in large-scale infrastructure projects. Local banks also will need time before they acquire the syndicating ability required for some of these projects.

Second, there are considerable *legal and regulatory problems* in implementing new BOT deals. The success of a project finance transaction is contingent upon a functioning and reasonably consistent legal and regulatory system; and legal systems in many of the countries in the region do not provide adequate protection. An international commercial

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[2] "Investors pave the way abroad" in Survey of World Economy and Finance: Dimensions of Globalization, *Financial Times*, Friday, 6 October 1995.

[3] This estimate includes the large investments which have taken place in the telecommunications sector, and which would not have taken place had not the state in each case granted the operator the concession to provide telecommunication services.

[4] In Poland, the Government is attempting to finance the major overhaul and building of 2,300 kilometers of motorway over the next 10-15 years.

bank will not lend money to a local enterprise unless the legal status of that company is clear. A clearer definition of a "privately held" company is required, since in many of these countries, even entities that are majority owned by the state and rely on the state for financial support, are referred to as private. Governments need to create a secure regulatory regime for these projects as well. In particular the regulators need to understand that their policies - especially in tariff setting and in determining allowable returns on investment - hold the key to whether or not investment will be attracted.

Third, there are *economic problems* that may hold up BOT projects. These refer to the currency, tariffs and macroeconomic stability. First, the projects sell to local consumers and generate local currency revenue. But the vast majority of debt will be in hard currencies such as US dollars, or German marks. Both the repatriation of profits and the repayment of debt depend on the convertibility and the stability of a country's currency. If the local currency is either unstable or difficult to convert, foreign investors will be wary of providing the hard currency needed to buy plant and equipment. In response to this problem a key question arises: will the central bank, for example, make it clear whether it will generate the supply of foreign exchange for the conversion of local currency revenues generated by BOTs? Second, will the buyer of the service from the project pay at the market rate? For example, in many transition economies the price for such services as electric power and telephone calls have been very low because of state subsidies. Governments will thus have to guarantee that the operators will be paid at a fair price for their product. Either that, or there must be a substantial tariff reform before the projects can be financed. Thirdly, the unstable macroeconomic conditions and high fluctuations in inflation make forecasts about the use of the service very difficult. This leads to another uncertainty: will insurers be able to offer investors insurance against projects that fail to generate expected revenues during operation? [5]

Finally there are the *political problems*. Many infrastructure projects involving foreign investors are more politically sensitive than other foreign direct investments for two reasons. First, electricity rates, toll road fees, telephone bills and other such charges are often strikingly visible and recent experience shows the negative response when this occurs in former state-owned utilities with mainly monopoly markets. Second, such projects will lead to a flow of funds out of the country in the form of dividends; this may be less palatable to domestic political opinion than the regular repayments on debt, which while also constituting a regular drain on a country's foreign exchange, does at least end when the debt matures. The high profile of these deals means that there is no guarantee that some level of government will not intervene in a transaction and change the rules at any time, even once a contract has been signed.

Bearing in mind these problems, it must be argued that most of the countries of central and eastern Europe are still at the frontiers of project finance with some way to go before the full benefits can be reaped.

(d) <u>What needs to be done to develop viable BOT deals in the countries of central and eastern Europe and the CIS?</u>

In conclusion, limited recourse finance using private investment and skills to run infrastructure projects offers a potentially attractive solution to transition economies who are seeking to update, expand and make their infrastructures more cost-effective. There are few, if any real alternatives, if development goals are to be met. The transition economies are also well placed to benefit; many have extensive and unexploited supplies of non-renewable natural resources.

However, for private non-recourse financing methods to become used regularly in these countries, important barriers relating to the legal and regulatory infrastructure, the political environment and the underlying economy will have to be addressed.

In order to address these problems, the UN/ECE in collaboration with other interested international agencies proposes to undertake the following. the *elaboration of guidelines on non-recourse finance techniques*, like BOT. This could be done by convening an expert group to draft the guidelines which, after discussion at a further conference next year, could then be ratified by the UN/ECE legal experts; *draft a convention on the protection of international investments* which could set standards and norms for legislators in the transition economies for their laws on international investments and their treatment of investors; *organize seminars and training programmes for government officials, lawyers or bankers in the transition economies* on these non-recourse financing techniques in order to promote a better dialogue between the public and private sector in these countries.

These proposals, which depend on the active assistance of the private sector and member governments, are in keeping with the role of the UN/ECE which: negotiates, implements and enforces international conventions and standards, without creating undue international bureaucracy; facilitates the involvement of the private sector in international debate; coordinates and assists other international agencies fulfil their own technical assistance mandates towards the transition economies;[6] has international expertise and programmes in energy, transport and trade where infrastructural assistance is required, and has member States who have been in the forefront of applying new financing techniques for economic infrastructure (e.g. Turkey).

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[5] For example, when infrastructure projects rely on revenues denominated in a local currency, the economic viability of the project can be undermined by significant fluctuations in currency exchange rates. If the local currency falls in value and the project is not permitted to increase its user fees to reflect that devaluation, then the revenues from the project are likely to be insufficient to cover the project's hard currency debt obligations, let alone provide any return to the project's equity investors. On the other hand, if the project is permitted to increase its user fees, then there is likely to be an adverse effect on usage (and thereby generated revenues) on the project.

[6] The international organizations have reached the same conclusion as to the potential of private sector investment in project financing. The EBRD is actively financing BOT deals in the transition economies. The World Bank is especially active in providing security and in private sector funding. In other ways, the international agencies are active. UNCTAD, for example is preparing guidelines to help negotiators on BOT, which will also be of interest to transition economies.

Contract Terms and Legal Structures

by Mr. Tim Steadman, Partner, Baker & McKenzie, London, United Kingdom

Structures

The following structural issues are relevant to the further development of successful public-private collaboration in regional infrastructure projects:

(a) Procurement

The host government usually wishes - rightly - to encourage competition among private sector bidders seeking to secure the projects. However, it is possible to make the rules of competition so onerous or inflexible that they operate to discourage private sector involvement at all. Lenders and sponsors are able to seek out project opportunities on a global basis, and will not participate in a scheme if the barriers to entry are too high.

An example of such a barrier - at least to foreign participation - would be a requirement to establish and capitalise at a high level a local bidding entity at an unduly early stage of the competition.

(b) The BOT Model

A glance at even a simplified BOT (Build, Operate and Transfer) spider chart will demonstrate why concession-based financing is so difficult and costly to conclude, regardless of location. They involve a multiplicity of parties and advisers, pulling in different directions for much of the time, and a long list of project agreements to be negotiated and fitted together.

There is room for much more standardisation and simplification of documentation and practice in this area, a role which falls particularly on the institutions and advisers who operate on a regional basis.

(c) Governing Law

In transition economies, the inherent complexity of the BOT structure is compounded by the challenge of integrating within a single set of project documents at least two and possibly more governing legal systems which are not necessarily compatible.

The lenders and investors on the one hand want the main project documents - for example the credit and construction contracts - to be governed by one of the common law systems which are customary for project financing, such as English or New York law. Documents produced in this legal tradition are always long and complex and pose a daunting challenge to the decision makers in the host government whose job it is to understand and approve or negotiate them.

The host government on the other hand and the very location of the projects assets, will require that some of the project documents and activities be subjected to local law.

This gives rise to a number of problems: one is the difficult interface between common law and civil law systems, New York and English law being examples of the former, and the many regional systems of the latter; the other is that some of the legal devices necessary for a successful project financing (particularly security structures) are not yet fully developed in many jurisdictions in the region though, as we heard earlier, steps are being taken to address this problem.

As if that were not enough, the parties often compromise on a neutral dispute resolution forum, exposing themselves to the procedural laws of a third legal system in the event of a dispute.

Contract Provisions

Having spoken about issues at the macro level, I would like to focus on some of the individual contract provisions which give rise to particular challenges when trying to conclude a BOT project in the region.

Understandably, most of these arise in the concession contract between the host government and project sponsors, since this is where the contrast between legal, commercial and perhaps philosophical approaches is at its most stark.

They also arise from a largely common source: namely that the BOT concept is often "sold" to governments on the basis that it provides them with economic assets at minimal cost and risk to the state. As the negotiations descend into detail, it becomes apparent to the government that this is not the case, and that successful BOT deals involve a sharing of risk. A costly impasse can then occur.

Some countries in the region have progressed beyond this simplistic notion of BOT and are exploring other permutations of public-private sector risk allocation. Hungary, based on reports of the latest developments on the M3 project, is one example. The Polish motorway enabling law also indicates an understanding of the need for state or multilateral support. Again, this process should be fostered by advisers and multilaterals.

The concession contract provisions which best exemplify this phenomenon include the following:

(a) Land Acquisition

The expropriation of land necessary for a project can be financially and politically expensive, and governments are sometimes tempted to try and delegate this task to the private sector concession company. Since the private sector is almost invariably equipped with less effective powers to expropriate land than the government, this obligation usually ends up with the government, albeit after several journeys across the negotiating table.

(b) Stabilization

Although political risk is a factor in all BOT deals, there is a particular apprehension that the projects in emerging markets are prone to dislocation by sudden changes in fiscal or legislative policy. It is therefore common practice for the lenders and investors to seek stabilisation clauses,

entitling the concession entity to relief in those circumstances.

There is often intense debate about the availability of such clauses - which are viewed by governments as a fetter on their freedom to legislate and a dilution of the concession principle. At best, there will be disagreement about the form which stabilisation should take: governments favour indirect compensation such as the right to increase user charges or an extended concession period; lenders and investors prefer hard cash.

(c) Foreign Exchange

There is always an attempt to match the currencies of investment and expenditure with the currency of project revenues, but some degree of mismatch is often unavoidable and mechanisms are needed to deal with exchange rate and convertibility problems. These often involve either a right to levy special user charge increases (unpopular with the electorate and therefore with those they elect) or guarantees from the state (resisted as inconsistent with the transfer of risk to the private sector which is the essence of BOT).

(d) Control and Intervention

While ministers may be attracted to the conceptual benefits of BOT, the ministry officials charged with negotiating the details often see only too clearly the loss of their prerogatives - and possibly even employment - which concessions to the private sector entail. This is a problem endemic to BOT projects everywhere, but magnified where officials are having to deal simultaneously with the general problems of economic transition and the particular ceding of powers from the public to private sector which is implicit in BOT.

This concern is often manifested in an attempt by the host government to impose prescriptive specifications on the technical aspects of the project and close control over tariff adjustments, both inimical to the bankability of the project if taken too far.

(e) Termination

All well-drafted concession contracts contemplate the possibility of premature termination, whether through default of one of the parties or *force majeure*. The lenders and investors will seek rights of compensation from the government in those circumstances. In cases where the government has been at fault, the merits of that claim are reasonably clear, and argument revolves mainly around how compensation should be calculated.

Where termination arises from concessionaire default or *force majeure*, the case for compensation from the government is less obvious. Even here, however, commercial banks will frequently insist on the government at least assuming or repaying the project debt, on the basis that the free reversion of the (usually immovable) project assets to the government would otherwise represent a windfall. Governments, on the other hand, reply that such underpinning amounts in substance to allowing sovereign recourse at project finance prices, and resolution is often time consuming. A well-structured substitution clause can help to bridge the gap.

Conclusion

The BOT concept can play a useful role in developing infrastructure in the region, but it is not a panacea and cannot defy the basic laws of economics. It will succeed only where its limitations are acknowledged and full advantage is taken of its inherent flexibility. I look forward to the development of other forms of public-private sector collaboration as regional governments, sponsors and lenders - and of course their respective advisers - gain more experience on the ground and exchange ideas at gatherings such as this.

STATISTICAL INFORMATION

General Developments

The following table (Table 1) summarizes the most recent information available to the UN/ECE secretariat on foreign direct investment stock in the countries of central and eastern Europe and the former Yugoslavia.

TABLE 1

Foreign (direct) investment stock in countries of central and eastern Europe and the former Yugoslavia by year

	FDI stock *(Million USD)*						Annual growth rate *(Per cent)*		
Country	1.01.1992	1.01.1993	1.01.1994	1.01.1995	1.07.1995 [3]	1.10.1995 [3]	1992	1993	1994
Belarus [1]	...	...	263.6	286.8	298.9	316.7	...	...	8.8
Bulgaria	17.7 [5]	76.0 [5]	268.7	467.2	514.3	...	329.4	253.6	73.9
Czech Republic [2]	595.1	1 598.3	2 166.3	3 028.7	3 431.2	...	168.6	35.5	39.8
Estonia [2]	...	58.6	221.1	441.5	523.7	...	...	277.3	99.7
Hungary	3 137.0	5 501.9	8 342.0	9 907.7	9 989.9	10 248.3	75.4	51.6	18.8
Latvia	...	33.4	74.6	294.3	380.0 [4]	...	...	123.4	294.5
Lithuania [1]	34.4	74.0	191.6	241.9	253.1	265.1	115.1	158.9	26.3
Moldova	...	...	7.2	24.8	32.2	81.9	...	...	243.3
Poland	479.5	1 644.1	2 542.5	3 574.2	3 910.2	4 140.5	242.9	54.6	40.6
Romania [1]	225.8	516.2	651.9	1 288.6	1 405.7	1 504.0	128.6	26.3	97.7
Russian Federation	...	...	2 433.4	3 347.5	3 807.8	4 388.2	...	...	37.6
Slovakia [1]	...	231.2	366.0	551.7	585.1	...	...	58.3	50.7
Ukraine [2]	...	...	219.4	450.1	566.4	...	...	...	105.2
SUB-TOTAL	...	...	17 748.3	23 419.1	25 196.9	...	...	...	32.0
Albania	...	...	144.0	200.0 [4]	...	...	...	...	38.9
Macedonia, FYR of [1]	11.9	14.1	14.9	34.0	39.6	40.7	18.6	5.8	128.1
Slovenia [6]	...	...	851.0	1 258.3	1 346.6	1 383.2	...	...	47.9
TOTAL	...	...	18 758.3	24 911.4	...	...	...	...	32.8

... Data unreported or not yet available.
[1] Cumulative foreign component of foreign investment enterprises' (FIEs') statutory capitals.
[2] Cumulative balance-of-payments FDI inflows.
[3] Preliminary data.
[4] UN/ECE secretariat estimate.
[5] Revised data.
[6] At end-of-year exchange rates.
Note: Values in national currencies converted into US dollars at historical yearly (quarterly or half-yearly) average exchange rates.
Source: UN/ECE secretariat - national statistics.

Foreign investment in Lithuania

The present overview is based on the data communicated to the secretariat by the Lithuanian Ministry of Economy (ME). These statistics refer to registered foreign investment enterprises (FIEs)[1] and the foreign component of their statutory capitals (that is, to foreign investment commitments as opposed to actually transferred foreign capital).

Growth

According to the Lithuanian ME, the total number of FI registrations in that country increased from 678 at the beginning of 1992 to 3,404 two years later, with the yearly increments in the number of registered enterprises exceeding 1.3 thousand both in 1992 and 1993 (Table 2).

[1] With respect to foreign direct investment in the transition economies (TEs), the UN/ECE secretariat generally uses the terms foreign investment (FI) and foreign investment enterprise (FIE), rather than the internationally-agreed terms of foreign direct investment (FDI) and foreign direct investment enterprise (FDIE). Like FDIEs, FIEs refer to enterprises with important foreign capital participation, including both newly established joint ventures and wholly foreign-owned subsidiaries, as well as already existing national enterprises which have been taken over by foreign investors, or in which the latter have purchased equity stakes.

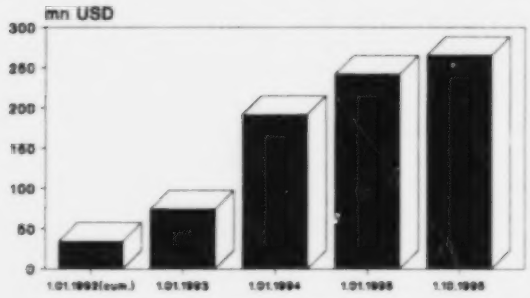
At the same time, the concept of an FIE differs from that of an FDIE. While the latter is strictly defined by international organizations as having at least a 10 per cent foreign share in its capital (although national practices vary), the definition of the former does not involve a similar percentage criterion, being of a purely qualitative nature. The eventual coverage differences, however, are insignificant. In this newsletter, the terms of FDI and FDIE are employed only in cases when they are known to be used correctly, while in all other cases the less-precise terms of FI and FIE are utilized.

TABLE 2
Foreign investment in Lithuania by year

Year	FI stock Increment (Million LTL)	FI stock Increment (Million USD)	FI stock Cumulative (Million USD)	FIEs Increment (Number)	FIEs Cum. (Number)
1.01.1992 (cum.)	43.9	34.4	34.4	678	678
1.01.1993 (1992)	65.4	39.6	74.0	1 357	2 035
1.01.1994 (1993)	398.7	117.6	191.6	1 369	3 404
1.01.1995 (1994)	189.0	50.3	241.9	928	4 332
1.10.1995 (1Q-3Q)	92.2	23.2	265.1	629	4 961
TOTAL	789.2	265.1	265.1	4 961	4 961

Note: Data refer to registered FIEs and foreign component of their statutory capitals; foreign capital data are converted in USD at yearly (half-yearly) average exchange rates; figures may not add to totals because of rounding.
Source: UN/ECE secretariat - Lithuanian Ministry of Economy.

CHART 1
GROWTH OF FOREIGN INVESTMENT IN LITHUANIA



FOREIGN COMPONENT OF FIEs' STATUTORY CAPITAL

During 1994, 928 new FIEs were registered and their total number stood at 4,332 at the end of that year (6.4-fold growth over three years). This growth continued in the first three quarters of 1995: during this period 629 FIEs were registered, raising their number to 4,961 at the beginning of October.

At current yearly average exchange rates, FI stock (the foreign component of aggregated statutory capitals) in Lithuania increased by USD 39.6 million in 1992 and by USD 117.6 million in 1993, reaching about USD 191.6 million at the beginning of 1994 as compared with USD 34.4 million at the start of 1992 (Table 2, Chart 1). The growth in FI stock slowed in 1994 when the increment dropped by more than half as compared with the previous year, and did not exceed USD 50.3 million. This deceleration continued into the first nine months of 1995: accumulated foreign capital increased by USD 23.2 million, so that at the end of that period the total made up USD 265.1 million (USD 241.9 million at the beginning of 1995).

At the end of 1994, as many as 1,075 FDI enterprises of 4,332 were wholly foreign-owned subsidiaries (25 per cent). These accounted for about 28 per cent of the total foreign capital committed to date.

Foreign partners

The distribution of foreign investment by origin of foreign investor at the beginning of 1995 shows that almost 65 per cent of total FI value was accounted for by companies from west European market economies; of this, about 59 per cent originated in the EU countries while 6 per cent came from their counterparts in the rest of this region (Table 3, Chart 2). Investment by business operators from the United States accounted for 15 per cent of the total FI stock, while those from European transition economies and developing countries for 14 and 3 per cent, respectively.

TABLE 3
Foreign investment in Lithuania as of 1 January 1995 by foreign investor country

Country / Region	FI stock (Million LTL)	FI cases (Number)
Western Europe	490.3	1 565
European Union	408.3	1 454
Austria	29.6	43
Belgium	4.1	18
Denmark	5.5	83
Finland	6.2	77
France	3.7	57
Germany	129.4	752
Greece	0.1	8
Ireland	19.5	37
Italy	4.2	66
Luxembourg	11.5	16
Netherlands	10.3	69
Portugal	0.0	2
Spain	7.7	4
Sweden	151.8	109
United Kingdom	24.7	113
Other western Europe	42.0	111
Cyprus	4.4	8
Iceland	10.6	8
Liechtenstein	1.3	10
Norway	1.1	48
Switzerland	24.2	25
Turkey	0.4	12
Canada	11.7	48
Israel	5.1	48
Japan	0.5	6
United States	107.3	285
Developing countries	23.2	87
Bahamas	0.3	2
Brazil	0.0	2
British Virgin Islands	15.3	13
Egypt	0.0	1
Hong Kong	1.9	5
India	0.0	1
Iran, Islamic Republic of	0.0	2
Iraq	0.0	2
Jordan	0.0	4
Korea, Republic of	1.0	3
Kuwait	0.0	1
Lebanon	0.0	8
Malaysia	0.0	1
Morocco	0.0	1
Panama	2.2	11
Peru	0.0	1
Syrian Arab Republic	0.0	1
Taiwan, Province of China	0.2	0.0
United Arab Emirates	0.0	2
Venezuela	0.0	2
Other	2.3	22
Transition economies	97.4	23 962
Bosnia & Herzegovina	0.0	1
Bulgaria	2.2	22
Croatia	0.0	2
Czech Republic	0.8	54
C.I.S., of which:	51.4	14 768
Belarus	2.0	175
Kazakhstan	0.7	29
Russian Federation	35.6	10 114
Ukraine	12.1	224
Other	1.0	37
Estonia	1.7	75
Hungary	0.4	46
Latvia	11.9	71
Poland	28.9	6 300
Romania	0.0	1
Slovak Republic	0.0	10
Slovenia	0.0	3
Yugoslavia	0.1	5
Non-European planned economies	1.0	1.3
China	1.0	57
Viet Nam	0.0	1
Other	0.4	11
Australia	0.4	10
South Africa	0.0	1
TOTAL	696.9	4 504

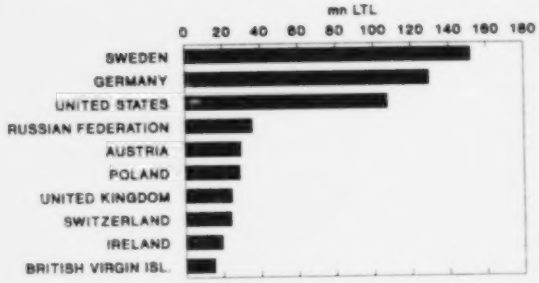
Note: Figures may not add to totals because of rounding.
Source: UN/ECE secretariat - Lithuanian Ministry of Economy.

CHART 2
FOREIGN INVESTMENT IN LITHUANIA
BY ORIGIN OF FOREIGN INVESTOR

FI STOCK (STATUTORY CAPITAL)

As of 1.01.95

CHART 3
FOREIGN INVESTMENT IN LITHUANIA
BY MAJOR FOREIGN INVESTOR COUNTRY



FI STOCK (STATUTORY CAPITAL)
As of 1.01.95

In terms of FIE number, the shares of western Europe and the US were much lower than those in capital, standing at 35 and 6 per cent, respectively. By contrast, the weight of transition economies by this yardstick was importantly higher than that in terms of foreign capital, reaching 53 per cent. This implies that the capitalization of FIEs with participation from transition economies was more shallow than that of those with partners from western Europe. In fact, in the latter case the average investment was seven times higher.

In terms of major investor countries, Swedish companies, accounting for 22 per cent of FI stock, were the largest consolidated investor in Lithuania (Chart 3). These were followed by their counterparts from Germany (19 per cent) and the United States (15 per cent). Together they committed 56 per cent of the total foreign component of aggregated statutory capital at the start of 1995. The Russian Federation (5 per cent) and Austria (4 per cent) continued the list of major investor countries, and, taken together, the five top-ranking consolidated investors accounted for 65 per cent of the total. The ten largest partner countries committed in Lithuania about 81 per cent of total FI stock to date.

It may be noted that in terms of the number of FIEs, the ranking of major investor countries was different. Russian companies took part in 22 per cent of the total number of FIEs, and German and Polish firms were involved in respectively 17 and 14 per cent. The five top-ranking investor countries (those mentioned plus the United States and Ukraine) accounted for 64 per cent of the total number of FIEs - a concentration rate almost as high as that of capital. This rate was four percentage points lower, however, for the top-ten investor countries at 77 per cent. It should be noted that in addition to the RF and Poland, companies from two more transition economies neighbouring Lithuania - Ukraine and Belarus - participated in the largest number of FIEs.

Foreign investment in the Former Yugoslav Republic of Macedonia

Situated in the south of the former Yugoslavia, the Former Yugoslav Republic (FYR) of Macedonia ranks fourth among the former constituent Yugoslav republics in terms of territory. Its area of 25.7 thousand km² is slightly larger than that of Slovenia. In terms of population (1.94 million in 1994), the FYR of Macedonia is bigger than Montenegro, but somewhat smaller than Slovenia. In 1989, the last year for which comparable data are available, the republic's share in the gross social product (GSP - gross value added of material production) of the former Yugoslavia was 5.7 per cent. In 1993, its GSP was USD 1,465 million (equivalent to USD 709 per capita), placing the FYR of Macedonia fourth among the former Yugoslav republics (excluding Bosnia and Herzegovina, for which there are no data). In 1993, manufacturing and mining (38 per cent) and services (29 per cent) were the major components of the social product. To a significant extent, the country's manufacturing has specialized in supplying inputs to the rest of the former Yugoslav economy. Within this sector, the production of electrical energy, electrical machinery, chemicals, textiles, and food and tobacco are the most developed.

The present overview is based on the statistics communicated to the UN/ECE Secretariat by the Statistical Office of the Former Yugoslav Republic (FYR) of Macedonia. These data refer to the number of registered FI cases and the foreign component of FIEs' statutory capital.

Growth

Between 1991 and the third quarter of 1995, the number of FI cases in the FYR of Macedonia grew unsteadily (Table 4, Chart 4). The investment climate was unfavourable during 1991-93, and translated into a low volume of activity among foreign companies. The situation improved dramatically in 1994, when economic stabilization showed its first results and 578 FI cases were registered. Growth in the number of registered deals continued during the first three quarters of 1995, albeit at a slower rate, when 89 new investment projects from abroad were registered. In cumulative terms, the number of FI deals totalled 814 at the end of September 1995.

The cumulative FI stock (the foreign component of FIEs' statutory capital) broadly followed the same growth trend, with relatively small annual increments in 1992-93. During these two years, only USD 3 million were

TABLE 5
Foreign investment in the FYR of Macedonia by foreign investor country

Country / Region	FI stock *(Thousand USD)*				FIEs *(Number)*			
	1.1.1992	1.1.1993	1.1.1994	1.1.1995	1.1.1992	1.1.1993	1.1.1994	1.1.1995
Western Europe:	11 828.0	13 993.0	14 771.8	32 742.4	97	122	136	511
EU:	9 465.6	11 356.1	12 059.4	29 278.5	83	105	117	427
Austria	819.1	872.3	885.3	1 921.0	34	38	39	71
France	1 650.0	1 653.6	1 740.7	1 761.5	4	5	6	7
Germany	5 558.2	6 866.4	7 363.5	11 930.5	22	31	35	191
Greece	455.5	455.5	455.5	620.3	13	16	18	63
Italy	525.2	1 041.0	1 142.8	12 269.6	7	10	12	56
Netherlands	0.0	0.0	0.0	267.8	0	0	0	19
Sweden	266.9	276.6	280.9	280.9	2	4	6	6
United Kingdom	190.7	190.7	190.7	226.9	1	1	1	14
Other Europe:	2 362.4	2 636.9	2 712.4	3 463.9	14	17	19	84
Switzerland	334.8	334.8	334.8	659.3	5	5	5	24
Cyprus	606.5	606.5	606.5	606.5	2	2	2	2
Turkey	1 421.1	1 695.6	1 771.1	2 198.1	7	10	12	58
United States	7.0	7.0	10.0	82.0	1	1	2	10
Developing countries:	0.0	0.0	0.0	6.6	0	0	0	5
Lebanon	-	0.0	0.0	6.6	-	0	0	5
Transition economies:	45.4	88.0	117.9	1 139.2	4	7	9	199
Albania	-	0.0	0.0	12.7	-	0	0	2
Bulgaria	45.4	88.0	117.9	532.1	4	7	9	135
Hungary	-	0.0	0.0	36.1	-	0	0	2
Slovakia	-	0.0	0.0	22.1	-	0	0	2
CIS, of which:	0.0	0.0	0.0	25.0	0	0	0	2
Moldova	-	0.0	0.0	10.0	-	0	0	1
Ukraine	-	0.0	0.0	15.0	-	0	0	1
ex-Yugoslavia, of which:	0.0	0.0	0.0	511.2	0	0	0	56
Croatia	-	0.0	0.0	160.7	-	0	0	6
Slovenia	-	0.0	0.0	350.5	-	0	0	50
TOTAL	11 880.4	14 088.0	14 899.7	33 970.2	102	130	147	725

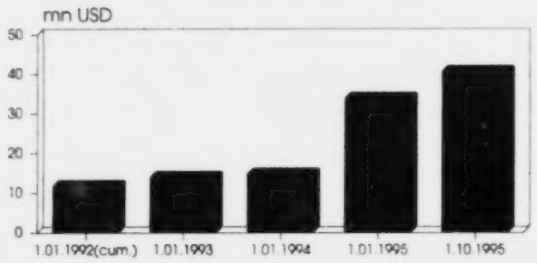
Note: Figures may not add to totals because of rounding.
Source: UN/ECE Secretariat - National Statistical Office.

TABLE 4
Foreign investment in the FYR of Macedonia by year

Year	FI stock *(Million USD)*		FIEs *(Number)*	
	Increment	Cumulative	Increment	Cumulative
1.01.1992 (1991)	11.9	11.9	102	102
1.01.1993 (1992)	2.2	14.1	28	130
1.01.1994 (1993)	0.8	14.9	17	147
1.01.1995 (1994)	19.1	34.0	578	725
1.10.1995 (1Q-3Q)	6.7	40.7	89	814
TOTAL	40.7	40.7	814	814

Note: Data refer to registered FIEs and the foreign component of their statutory capitals; foreign capital data are converted in USD at yearly (half-yearly) average exchange rates; figures may not add to totals because of rounding.
Source: UN/ECE secretariat - National Statistical Office.

CHART 4
GROWTH OF FOREIGN INVESTMENT IN THE F. Y. R. OF MACEDONIA



FOREIGN COMPONENT OF FIEs' STATUTORY CAPITAL

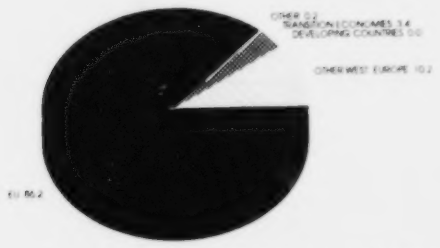
committed for investment. The increment in FI stock was larger in 1994 (USD 19 million), but growth in the value of foreign capital was less dramatic than that of the number of FI cases. An increment of USD 5.6 million during the first nine months of 1995 raised the total cumulative FI stock to USD 40.7 million at the end of the third quarter of 1995.

Foreign partners

During 1991-95, foreign investment in the FYR of Macedonia originated mostly in the member countries of the EU (see Table 5, Chart 5). In cumulative terms, the share of this region increased from 80 per cent in 1991 to 86 per cent at the beginning of 1995. In contrast, the share of the other European market economies declined from 20 per cent in 1991 to 10 per cent at the beginning of 1995. The FI activity of transition economies tended to grow during the period under review, but their share in the overall volume of FI stock remained relatively small (around 3 per cent at the beginning of 1995). The latter also holds for foreign investors from the US and the developing countries, the shares of which did not exceed one half a per cent of the total in the same period. In terms of the number of FI cases, the share of the EU member States was lower than in terms of FI stock (59 per cent), and that of transition economies importantly higher (27 per cent). This suggests a relatively low capitalization of FIEs from transition economies.

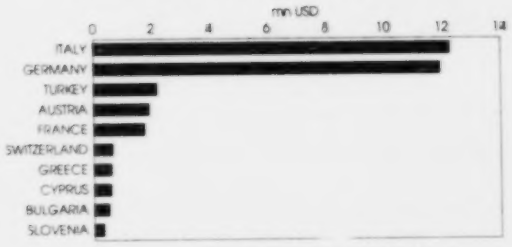
The major investor countries during the period 1991-94 were Italy and Germany (see Chart 6). These accounted for respectively 36 and 35 per cent of the total FI stock at the beginning of 1995. The shares of the other top-ranking investor countries - Turkey (6 per cent), Austria (6 per cent) and France (5 per cent) - were lower. The combined share of the top-five aggregated investors in FI stock was

CHART 5
FOREIGN INVESTMENT IN THE F. Y. R. OF MACEDONIA
BY ORIGIN OF FOREIGN INVESTOR



FI STOCK (STATUTORY CAPITAL) As of 1.01.95

CHART 6
FOREIGN INVESTMENT IN THE F. Y. R. OF MACEDONIA
BY MAJOR FOREIGN INVESTOR COUNTRY



FI STOCK (STATUTORY CAPITAL)

As of 1.01.95

89 per cent at the beginning of 1995, while that of the top ten made up 97 per cent.

In terms of investment numbers, companies from Germany accounted for 191 cases (26 per cent of the total), followed by Bulgaria with 135 cases (19 per cent), Austria (10 per cent), Greece (9 per cent) and Turkey (8 per cent). At the beginning of 1995, taken together, the five top-ranking investor countries accounted for 71 per cent of the total number, while the top-ten investor countries for 94 per cent.

It should be noted that given the relatively low volume of foreign investment in the FYR of Macedonia, its structure may be influenced by relatively large individual transactions in the future. Therefore, it may experience important changes along with the improvement in the investment climate.

NEWS ROUND-UP

Recent and forthcoming meetings

The *First East/West Economic Forum of the Regions of Europe* took place from 17-20 January 1996, in Geneva, Switzerland. This meeting focused on *partnerships and regions* as a new factor in European economic cooperation.

In reforming their political systems and economic structures, the countries in central and eastern Europe have faced considerable difficulties in joining the global economic market. In an effort to overcome these difficulties, a large movement of cooperation and technical assistance has been developed in order to transfer the experience and know-how necessary for the creation of new political and economic institutions. In these countries, the adaptation and development of economic structures have a regional dimension that deserves to be further developed. From this perspective, the meeting emphasized mobilizing these regions, launching initiatives to reinforce economic cooperation in Europe and promoting partnerships with west European countries.

More than 400 delegates representing regional authorities, development agencies, public and private companies, international institutions and organizations took part in this forum. They came from about 30 countries of western, central and eastern Europe, including 16 transition economies, four of which were CIS States. For information on the Forum's proceedings, contact:

Council of Europe
Département de l'Intérieur, de l'Environnement et des Afffaires Régionales
Mme. Marie-Hélène Dubouloz
Case postale 3918
CH-1211 Geneva 3
Switzerland
Tel.: +(41 22) 319 32 57
Fax: +(41 22) 310 33 02

The *Inaugural Meeting of the UN/ECE Group of Experts on Build, Operate and Transfer (BOT)* was held on 19 January 1996, at the Palais des Nations in Geneva, Switzerland. These experts represent some of the leading private sector companies with widespread international experience in financing infrastructure projects. The Group also includes experts from international organizations, including the European Bank for Reconstruction and Development (EBRD).

The purpose of this Group is to devise guidelines for Build, Operate and Transfer techniques to finance infrastructure modernization in central and eastern Europe. The Group was established following an international forum held in November last year on methods of using private capital for large-scale infrastructure projects in central and eastern Europe and the CIS. The Group was officially endorsed by the Committee on the Development of Trade, under whose working party the group has been formed. Experts agreed to have their guidelines finalized by the time of the Committee's next meeting in December 1996.

In order to help the countries of central and eastern Europe and the CIS apply these new project finance methods, the experts have decided to hold consultations with officials from relevant departments of transition economies' governments. These meetings will allow such officials the opportunity to inform the experts of some of the problems encountered while implementing private financing initiatives. The comments of government officials will be reflected in the guidelines document. Meetings will also be held to help train officials, and are scheduled to take place during the second half of 1996.

To simplify their work, the Group of Experts has asked the secretariat of the ECE and EBRD to identify contacts within governments in the transition economies who would be interested in taking part in these consultations. Governments who would like to identify their own experts to work with this group, or who desire further information on possible training programmes should contact:

Mrs. Carol Cosgrove-Sacks
Director, Trade Division
BOT Group
United Nations Economic Commission for Europe
Palais des Nations
CH-1211 Geneva 10, Switzerland
Tel.: +(41 22) 917 2771 or 917 2838
Fax: +(41 22) 917 0037

The conference on *Public/Private Partnerships in Trans-European Transport Network* will be held on 27-28 February 1996, in Brussels, Belgium. The conference organizers, International Business Communications Limited, hold that the economic and competitive importance of an efficient, safe and environmentally sustainable transport system is vital for the future, and that transport links must be developed to bring full benefits to the European markets.

The conference will also address the practical problems of financing transport projects in the EU, the role of private and intra-regional credit institutions, the possibilities and problems of extending the existing and future trans-European transport network to Eastern Europe, and place a particular emphasis on the aspect of financing

the transport infrastructure, including the possibilities of partnerships. In addition, reports on the latest development and on priority projects of the European Commissioner for Transport will be presented.

The registration fee for the conference is GBP 799. Copies of the conference report will be available for GBP 200, plus GBP 20 postage if the address is outside of the UK. Further information and registration materials may be obtained from:

The Bookings Department
IBC Legal Studies and Services Limited
Gilmoore House
57-61 Mortimer Street
London W1N 8JX
United Kingdom
Tel:. +(44 171) 637 4383
Fax: +(44 171) 631 3214
E-mail: linda_mckay@ibcuklon.cc.mail.
compuserve.com

The international conference entitled *Leasing Business Cooperation '96* will take place on 25-27 March, in Moscow, Russian Federation. The conference organizers, the Russian Association of Leasing Companies and the Seentext Company, expect about 300 participants, including representatives from government agencies, foreign and domestic banks, and leasing and financial companies. The goals of the conference are to introduce leasing to Russian financial institutions, emphasizing its technical and legal aspects; to present new technologies and equipment that can be successfully involved in leasing operations in Russia; and to introduce perspective partners to each other for further successful cooperation.

Additional information on this conference may be obtained from:

Artemi A. Kadik
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Seentext Co., Ltd.
4-A, Dnepropetrovski proezd
113545 Moscow
Russian Federation
Tel.: +(7 095) 311 7069
Fax: +(7 095) 311 1114

Recent publications

East European Energy report, Financial Times Energy Publishing.

Published monthly, The Financial Times (FT) *East European Energy Report* provides comprehensive coverage on energy exploration; the coal, oil, gas, electricity and nuclear sectors in the region; statistics on production in major sectors by country, the pace of privatization, related legislation, and information on energy-related policy and environmental issues.

FT Energy Publishing produces 16 energy newsletters with up-to-date analyses of information from industries and governments. The annual subscription rate is GB£ 390 in the UK, and GB£ 420 elsewhere. Inquiries should be addressed to:

FT Energy Publishing
Maple House
149 Tottenham Court Road
London W1P 9LL
United Kingdom
Tel.: +(44 171) 896 2241
Fax: +(44 171) 896 2275

Project Finance International, IFR Publishing.

This monthly publication reviews different projects in Asia and the Pacific, the Americas, Europe and Africa and the Middle East, and includes a special section covering investment projects in eastern Europe. The articles provide analysis on both the financial and legislative aspects of the projects examined. The November 1995 issue contained articles on the subjects listed below. *Poland:* EuRoPol Gaz seeks leader; Financing GSM networks; Financing distribution logistics; RP Telekom; *Hungary:* M5 motor way syndication launched; *Romania:* European Investment Bank loan for heat and power scheme; *Russia:* Production-sharing agreements law; EBRD loan for shoe production; *Azerbaijan:* Chinese back pipeline; Agreement with the Consortium of International Oil Companies; *Ukraine:* EBRD loan sought for power upgrade.

The annual subscription rate is GBP 825 (Europe), JPY 149,000 (Japan), USD 1,295 (US and rest of the world). *Project Finance International* is also available on CD-ROM. Inquiries should be addressed to:

Dept PFI SUBS
IFR Publishing
Aldgate House
33, Aldgate High Street
London EC3N 1DL
United Kingdom
Tel. +(44 171) 369 7397
Fax. +(44 171) 369 7519

Russian Investment Opportunities Catalogue, Dixon & Company, The East European Investment Magazine, Vol. 1, 1995, ISSN 1063-4029.

This catalogue provides brief presentations for more than 500 investment opportunities in the Russian Federation, covering a wide range of industry sectors. Additional information about the projects presented can be ordered from Dixon & Company. The full descriptive catalogue is also available for USD 900. A summary of investment projects presented at the Dixon & Company Conference is included in this issue. For more information, contact Dixon & Company in the US at:

119 Fifth Avenue
New York, NY 10003
USA
Tel.: +(1-212) 388 1500
Fax: +(1 212) 254 3386

Or in the UK at:
13 White Lodge
Castlebar Park
London W5 1BX
UK
Tel.: +(44 181) 810 5400
Fax: +(44 181) 810 5600

Or in the Russian Federation at:
53 Leningradsky Prospekt
125468 Moscow
RF
Tel.: +(7 095) 931 9603
Fax: +(7 095) 931 9604

Transitions économiques à l'Est (1989-1995), Centre d'études et de documentation sur l'ex-URSS, la Chine et l'Europe de l'Est (Ceducee), 262 pages.

This book analyses the most important aspects of the economic transition that central and east European countries have undergone. A collection of articles provide a financial and monetary perspective, and study the impact of the transformation on the well-being of the nations. It also comprises an overview of privatizations in the main sectors of the economy, including agriculture.

In the second part, the book presents the evolution of every central and east European country, including the new German Länder, over the period 1989-1995, i.e. the main steps taken towards a creating free market economy. The involvement of several western countries, especially France, is also analyzed.

The price per copy is FFR 120, plus an additional FFR 20 for postage. Mail orders to:

La documentation française
124, rue Henri-Barbusse
F-93308 Aubervilliers CEDEX
France
Tel.: +(33 1) 48 39 56 00
Fax: +(33 1) 48 39 56 01

Central European and CIS Legal Update, Baker & McKenzie, December 1995.

This publication is issued periodically as a survey of selected legal developments across the region. In this issue, legislative changes are presented for the Czech Republic, Hungary, Kazakstan, Poland, the Russian Federation, and Ukraine.

The December 1995 issue reviews: the new foreign exchange law in the Czech Republic; amendments to Hungarian immigration rules and to civil procedure on injunctions; land ownership in Kazakstan; Polish anti-monopoly law; recent developments in the Russian Federation in areas of taxation, land ownership, foreign trade, labor laws, etc.; Ukrainian legislation on intellectual property rights and other developments in the east European region.

Information and subscription requests should be addressed to the coordinating editor (address shown below) or to any Baker & McKenzie office in central Europe or the CIS.

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Other news items

Selected articles from past issues of *East-West Investment News* and subscription information are now available for viewing on the World Wide Web at: *http://www.unicc.org/unece/trade/policy/ewin_hme.htm*.

Additional articles will be added as future issues of *EWIN* appear. The EWIN site contains links to other UN/ECE Trade Division Web pages, as well as to those created by other UN/ECE divisions.

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